

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

**Pennsylvania Public Utility
Commission, *et al.* v. UGI Utilities,
Inc. – Electric Division**

**Public Meeting October 4, 2018
2640058-OSA
Docket No. R-2017-2640058, *et al.***

**POLLING SHEET NO. 23 - Taxes: 2018 TCJA Adjustment – Retroactive and Single-Issue
Ratemaking**

MOTION OF COMMISSIONER DAVID W. SWEET

Before the Commission for consideration are the exceptions and replies to the Recommended Decision of Administrative Law Judges (ALJ) Steven K. Haas and Andrew M. Calvelli regarding UGI Utilities, Inc. – Electric Division’s (UGI’s) request to increase its annual jurisdictional distribution operating revenues. Included in UGI’s request are proposed rates that have been amended to reflect the 2017 Tax Cuts and Jobs Act’s (Tax Act) reduction in the corporate tax rate from 35% to 21%. Earlier this year, this Commission assessed the impact of the Tax Act on existing utilities’ rates and determined that, because of the decrease in the corporate tax rate, existing rates were no longer just and reasonable.¹ We concluded that the tax savings and associated reductions in utility revenue requirements should be flowed back to consumers on a current basis and directed certain utilities, not including UGI, to implement a negative surcharge to recognize the Tax Act changes. Those utilities also were required to establish deferred regulatory liability accounts to record the tax savings associated with the Tax Act for the January 1, 2018 through June 30, 2018 time period. We directed that those accounts accrue interest at the residential mortgage lending rate specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law.^{2,3}

For those utilities, like UGI, that had pending rate cases or were planning to file rate cases on or before August 1, 2018, we expressed an expectation that the utilities and the parties in those proceedings would address the effect of the federal tax rate reduction on the justness and reasonableness of the consumer rates charged during the term of the suspension period. We consolidated those utilities’ temporary rates tariff filings with the pending rate cases for hearing and disposition so that parties could address the Tax Act’s impacts in the context of the overall reviews of the utilities’ rates and rate structures. In particular, we expressed an expectation that a utility with a pending rate case, and the parties to that rate case, would address whether a retroactive surcharge or other measure was necessary to account for the tax rate changes that became effective January 1 of this year.⁴

¹ See *Tax Cuts and Jobs Act of 2017 Temporary Rates Order*, Docket No. M-2018-2641242 (Order entered Mar. 15, 2018).

² 41 P.S. §§ 101 *et seq.*

³ See *Tax Cuts and Jobs Act of 2017 Temporary Rates Order*, Docket No. M-2018-2641242 (Order entered May 17, 2018) (*May 2018 Tax Order*).

⁴ *Id.* at 20-21.

In the proceeding before us today, I recognize that UGI reflected in its rates going forward the effect of the Tax Act. However, I agree with the Commission's Bureau of Investigation and Enforcement (I&E),⁵ and the ALJs,⁶ that UGI should be required to implement a negative surcharge to return to customers the net tax savings associated with the reduction in federal income tax rate for the time period of January 1, 2018 through the effective date of UGI's new rates. Included in I&E's testimony on this issue was the recommendation that the return of that money also include interest at the residential mortgage lending rate specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law.⁷ In my review of the ALJs' Recommended Decision in this proceeding, it appears that the ALJs adopted I&E's recommendation that UGI be required to implement a negative surcharge, but failed to address the inclusion of interest. I find it appropriate to include interest on the roughly \$212,000 net tax savings for the period of January 1 through the effective date of UGI's rates. This is consistent with our treatment, in our *May 2018 Tax Order*, of the deferred regulatory liability accounts to be established by those utilities without pending rate cases.

THEREFORE, I MOVE THAT:

1. Regarding Issue Number 23 of the Polling Sheets, taxes: 2018 TCJA Adjustment – Retroactive and Single-Issue Ratemaking, UGI Utilities, Inc. – Electric Division refund its ratepayers the net tax savings from January 1, 2018 through the effective date of its rates that result from the 2017 Tax Cuts and Jobs Act through a negative surcharge that includes interest at the residential mortgage lending rate specified by the Secretary of Banking.
2. The Office of Special Assistants include this directive in its Opinion and Order to be prepared for this docket.

Date: October 4, 2018



David W. Sweet, Commissioner

⁵ See I&E St. No. 1, pp. 33-34; I&E St. No. 1-SR, p. 36.

⁶ See ALJs' R.D. at p. 105 and Ordering Paragraphs 4-5.

⁷ See I&E St. No. 1-SR, p. 36.